

August 3, 2007

RE: Kenneth Jurgensen v. Department of Corrections
Allocation Review Request ALLO-07-007

Dear Mr. Jurgensen:

On July 18, 2007, I conducted a Director's review meeting at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington, concerning the allocation of your position. Present at the Director's review meeting were you and Georgia Knowlen, Human Resource Consultant, representing the Department of Corrections (DOC). Megan Smith, Human Resource Consultant, from the Washington State Penitentiary also participated by telephone, and Corrections Specialist 3 Archie Grant from Airway Heights Corrections Center observed the conference.

Background

On December 12, 2006, you submitted a Position Description Form (PDF) to the Washington State Penitentiary (WSP) Personnel Office, requesting that your Corrections Specialist 3 position be reallocated to a Correctional Hearings Officer 3 (Exhibit C). By letter dated December 19, 2006, Megan Smith, Human Resource Consultant, determined your position was properly allocated and denied your request. (Exhibit B). In her determination, Ms. Smith concluded your position fit the Corrections Specialist 3 class because you are assigned the overall administration of the offender disciplinary hearings. Ms. Smith also determined your position did not align with the Correctional Hearings Officer 3 class because it was specific to community custody violations.

On January 22, 2007, the Department of Personnel received your request for a Director's review of Ms. Smith's determination (Exhibit A).

The following summarizes your perspective as well as your employer's:

Summary of Mr. Jurgensen's Perspective

You assert the Correctional Hearings Officer classifications more accurately describe the duties of your position. You disagree that the Correctional Hearings Officer classes should be limited to Hearings Officers working in Community Corrections because you contend the scope of your assigned duties and responsibilities is nearly identical. As an example, you state you conduct due process, evidentiary hearings on inmates who violate serious infraction rules outlined in WAC 137-28. Additionally, you assert you have as much, if not greater, authority in rendering decisions affecting an inmate's liberty interest. For example, you state as an Adult Correctional Institutions Disciplinary Hearings Officer, you have the authority to keep an inmate on total confinement for up to 270 days, as opposed to most Community Corrections Hearings Officers who can only place an individual on total confinement in jail or prison for 60 days. Similarly, you assert you have the authority to charge restitution for any unnecessary expense caused by the inmate's misconduct, a sanction you contend Community Corrections Officers cannot impose. Overall, you believe the work and level of responsibility performed by Hearings Officers in adult institutions and community corrections facilities are the same because both deal with criminal law violations, punishment, liberty interest, and evidentiary standards, as well as the same applicable policies. As a result, you argue there is a pay inequity between the two classes.

You do not believe the Corrections Specialist 3 classification accurately reflects the duties and responsibilities assigned to your position because you work as a Hearings Officer conducting disciplinary hearings in an adult institution. You state you do not perform the duties envisioned in the Corrections Specialist 3 class because you do not perform administrative hearings such as administrative segregation; rather, you conduct disciplinary hearings. Further, you contend you are required to render decisions about serious allegations such as rape and murder and must make an impartial decision of guilt or innocence based on the rules of evidence. As such, you argue you may become the subject of a lawsuit or may be put in the position of rendering a decision about an infraction that had previously been reviewed by one of your superiors. In summary, you do not believe the Corrections Specialist 3 classification accurately reflects your assigned duties or level of responsibility, and you argue your position should be reallocated to the Correctional Hearings Officer class series.

Summary of DOC's Reasoning

DOC asserts the department compared the duties and responsibilities described in your Position Description Form to the relevant job specifications and determined the Corrections Specialist 3 classification was the appropriate fit. DOC contends your position meets the definition and distinguishing characteristics of the Corrections Specialist 3 because you are assigned to work in a correctional program that includes institutional hearings. In addition, DOC argues that you perform professional level duties covering institution hearings regarding disciplinary matters, which DOC points out is a distinguishing characteristic of the Corrections Specialist 3 class. While DOC asserts typical work listed on a class specification is not considered an allocating factor, the

department notes many of the examples stated in the Corrections Specialist 3 class are consistent with your assigned work. For example, DOC states you conduct disciplinary hearings in accordance with the WACs and that you review and interpret applicable laws and make recommendations affecting an offender's custody.

While DOC acknowledges there are some similarities to the Correctional Hearings Officer 3 class, the department argues your position does not meet the category concept envisioned in the class specification because you do not perform hearings related to community custody violations. DOC further argues the hearings differ because you deal with inmates, not individuals who have been released to Community Corrections. Instead, DOC argues your position performs institutional hearings related to discipline as encompassed by the category concept and distinguishing characteristics of the Corrections Specialist 3 classification.

Director's Determination

As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review meeting, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Corrections Specialist 3 classification.

Rationale for Determination

Based on the Position Objective stated on both the PDF you submitted for reallocation (Exhibit C), as well as the PDF on file (Exhibit C-1), the primary purpose of your position is to direct the offender disciplinary hearings program at the Washington State Penitentiary (WSP) and conduct prison disciplinary hearings in compliance with WAC Chapter 137-28. As such, you apply the "some evidence" rule, independently make decisions, determine if misconduct occurred and impose sanctions, prepare hearing findings and dispositions, and serve as the final appeal authority for general infractions.

In reviewing the key work activities identified as 65%, the majority of your work relates to the overall administration of the offender disciplinary hearings at WSP, as summarized above. This requires thorough knowledge of WACs, DOC policies and local operating memorandums to administer hearings and determine appropriate sanctions. You plan and organize your workflow, and you maintain control of evidence presented at the hearings.

When comparing your assigned duties and responsibilities to the job class specifications, the allocating criteria are described as follows:

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with

which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

The Correctional Hearings Occupational Category Concept states, "[t]his series conducts offender hearings and renders decisions on alleged community custody violations." Your position does not fit within the concept for this occupational category because you do not conduct hearings or render decisions related to community custody violations. Rather, you conduct offender disciplinary hearings within an adult correctional institution.

In comparing your assigned duties and responsibilities to the Correctional Hearings Officer 3 classification, the distinguishing characteristics state, "[t]his is the senior, specialist, or leadworker level of the series. Positions specialize in hearing community custody violations and render decisions based upon the preponderance of the evidence." Although you conduct offender disciplinary hearings using the "some evidence" rule, your position does not fit within the distinguishing characteristics of this class because you do not conduct community custody violation hearings.

The Corrections Specialists Occupational Category Concept states, in relevant part, "[w]ithin the Department of Corrections, is responsible for various correctional programs as assigned, such as . . . institutional hearings. . . ." Your position fits within the concept for this occupational category because you conduct offender disciplinary hearings within an adult correctional institution.

In comparing your assigned duties and responsibilities to the Corrections Specialist 3 classification, the distinguishing characteristics state, in relevant part, "[t]his is the senior, specialist, or leadworker level of the series. Within the Department of Corrections, develops, coordinates, implements and/or evaluates various correctional program(s) as assigned. Prepares comprehensive reports and makes recommendations for management, identifies and projects trends, and monitors program expenditures for adherence to budgeted allocations. Positions in this class perform professional level duties covering one or more of the following correctional program areas: . . . institutional hearings (e.g., disciplinary, intensive management, administrative segregation), . . ." Your position fits within the distinguishing characteristics for this class because you perform professional level duties for the offender disciplinary hearings program, which includes conducting disciplinary hearings on offender violations.

While I acknowledge your argument that the only difference between hearings in an adult facility and those conducted by community corrections is location, which you argue creates an inequity, it is not an argument that can be addressed through the allocation process. As previously indicated by the former Personnel Appeals Board (PAB), "[s]alary inequity is not an allocation criteria [sic] and should not be considered when

determining the appropriate allocation of position.” Sorensen v. Dept's Of Social and Health Services and Personnel, PAB Case No. A94-020 (1995).

In addition, the Personnel Resources Board (Board) heard a similar case from an employee who worked in an adult correctional institution and requested reallocation to a classification used in the community corrections setting. In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), the Board determined that the thrust of Ms. Byrnes' argument centered on a comparison of the duties she performed within the Washington State Penitentiary to those performed by a Community Corrections Specialist working outside of the Penitentiary. The Board held that “[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position.” Citing to Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

In Byrnes, the Board concluded that “[t]ypically, Correction Specialists work in correctional facilities and they do not continue to manage a caseload after offenders have been released from the facility.” The Board further concluded that Ms. Byrne's position was best described by the Corrections Specialist 3 classification.

Here, as in Byrnes, your work is conducted in a correctional facility. You do not conduct hearings for offenders after the offenders have been released from the facility.

I recognize that you have a tremendous amount of responsibility and the work you do is very important. However, a position's allocation is based on a comparison of the assigned duties and responsibilities to the available job classifications. The Washington State Classification and Administrative Pay Guide notes the first standard for allocating a position is meeting the definition as described in the category or class series concept. Further, the PAB previously concluded that when there is a class that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position should be allocated to the class that specifically includes the position. Mikitik v. Dept's of Wildlife and Personnel, PAB No. A88-021 (1989).

In this case, your position is specifically included in the Corrections Specialist 3 classification, and the Correctional Hearings Officer 3 classification is limited to positions rendering decisions on community custody violations. Therefore, the Corrections Specialist 3 classification best describes your position.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Teresa Parsons
Director's Review Supervisor
Legal Affairs Division

c: Georgia Knowlen, DOC
Megan Smith, DOC
Lisa Skriletz, DOP

Enclosure: List of Exhibits